THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.21062 OF 2006

DATED: 11.10.2006

BETWEEN:

M.Balarama Krishna … petitioner

And

The Commissioner,
Municipal Corporation of Kakinada,
East Godavari. … Respondents.
And another.

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.21062 OF 2006

ORDER:

The matter is coming up for admission. The writ petition is filed for a writ of mandamus declaring the impugned action of the 1st respondent in issuing notice Roc.No.1586/06/E3 dated 28.2.2006 directing the petitioner to close his bore-well, without proper enquiry about the usage, as illegal, arbitrary and violative of principles of natural justice and consequently set aside the said notice and grant such other relief.

It is stated by the petitioner that his house is close to see and the water in the area is saline in nature and he is having bore-well for his personal use and the petitioner has not been doing business with the water and the petitioner will be drawing water only for his personal use. It is also stated that the first respondent without any reason or cause, had issued impugned notice directing him to close the bore-well as he had been selling the water unauthorisedly. The said notice also proposes initiation of action against the petitioner under A.P.Water Land and Trees Act. It is also brought to the notice of this Court that a writ petition No.4664 of 2006 of similar nature was disposed of by this court by an order dated 10.3.2006 with certain directions.

Without expressing any opinion on the merits and demerits of the case, this Court is of the considered opinion that it would not be just and proper to direct the closing down of the bore-well preventing

the petitioner from drawing water even for personal use, without putting the petitioner on notice.

In view of the same, the first respondent to treat the same as show cause notice permitting the petitioner to submit explanation to the said show cause notice within two weeks from the date of receipt of a copy of this order and till the said explanation is considered and disposed of by the first respondent, the petitioner shall not be prevented from making use of the said bore-well water for his personal use. However, the petitioner shall not be permitted to sell the said water.

With the above direction, the writ petition is disposed of at the stage of admission. No order as to costs.

11.10.2006

mdaa